

STORM WATER UTILITY ORDINANCE

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21-101. Title and Purpose. This ordinance shall be known as the "Stormwater Utility Ordinance" for the City of Goodlettsville, Tennessee.

(1) Introduction.

The City of Goodlettsville finds, determines and declares that the stormwater system, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to all property within the incorporated City of Goodlettsville limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater, the reductions of hazards to property and life resulting from stormwater runoff, improvements in general health and welfare through reduction of undesirable stormwater conditions, and improvements to water quality in the stormwater and surface water system and its receiving waters of the state all of which are managed by the Stormwater Coordinator as part of the Municipal Separate Storm Sewer System (MS4) Program.

(2) Purpose.

The objective of this ordinance is to promote the public health, safety and general welfare of the City of Goodlettsville, Tennessee ("City") and its citizens in compliance with the Federal Clean Water Act, 33 U.S.C. 1251 et seq., and Tennessee Code Annotated, § 68-221-1101 et seq. which require municipalities to implement stormwater management programs, within prescribed time frames, to regulate stormwater discharges to protect water quality; establish adequate systems of collection, conveyance, detention, treatment and release of stormwater; reduce hazards of property and life resulting from stormwater runoff; and enable municipalities to fix and require payment of fees for the privilege of discharging stormwater. The City finds that a stormwater management system which provides for the treatment of stormwater is of benefit and provides services to all property within the City.

It is further determined and declared that charges shall be established for each parcel of real property located within the municipal limits of the City as provided hereinafter to provide for dedicated funding sources for the administration of stormwater management programs and/or stormwater system of the City. The proceeds of charges so derived shall be used for the purposes of stormwater management including, but not limited to: planning, operation, maintenance, repair, replacement and debt service of the City's stormwater management programs and system necessary to protect the health, safety and welfare of the public.

The Stormwater Utility purpose is to provide stormwater management for the City of Goodlettsville including to:

- (a) Administer and enforce the City of Goodlettsville Stormwater Management Ordinance;
 - (b) Administer, plan, and implement stormwater projects to protect, maintain, and enhance the environment of the City of Goodlettsville;
 - (c) Implement activities necessary to maintain compliance with the City's MS4 National Pollutant Discharge Elimination System (NPDES) Permit and applicable regulations, 40 CFR Section 122.26 for stormwater discharges;
 - (d) Annually analyze the cost of services provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility and make recommendations for changes therein as necessary to support the Stormwater Utility services; and,
 - (e) Advise the Board of Commissioners and other City of Goodlettsville departments on matters relating to the utility.
- (3) Administering entity. The Stormwater Utility shall be part of the Goodlettsville Stormwater Department. The Stormwater Utility, under the direction and supervision of the Stormwater Coordinator or designee, shall administer the provisions of this Stormwater Utility Ordinance as approved by the City Administrator.

21-102. Jurisdiction. The Stormwater Utility Ordinance shall govern all properties within the corporate limits of the City of Goodlettsville, in Tennessee.

21-103. Definitions. For the purpose of this chapter, the following definitions shall apply:

- (1) "*City Administrator*" means the City Manager for the City of Goodlettsville or his/her designee.
- (2) "*Agricultural property*". Property which is zoned agricultural and/or property which yields an annual minimum, or in which the annual minimum has been met in two of the last five years, of \$1,000.00 of agricultural products produced and/or sold from the operation of the property. Agricultural production shall include agricultural, forest, and/or livestock production as defined by the United States Department of Agriculture, Natural Resources Conservation Service, Environmental Quality Incentive

Program. Proof of agricultural producer status may include IRS from 1040 Schedule F or other accounting records certified by a tax preparer.

(3) *"Base Rate" or "Unit Rate"*. The stormwater user fee for a detached single family residential property or the rate per ERU for other developed property in the City of Goodlettsville.

(4) *"Best Management Practices" or "BMPs"*. The physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Goodlettsville, and that have been incorporated by reference into the Stormwater Management Ordinance as if fully set out therein.

(5) *"Construction"*. The erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities.

(6) *"Deficient property"*. Real property that does not have adequate stormwater facilities as required in the latest edition of the City of Goodlettsville Subdivision Regulations and Stormwater Management Ordinance.

(7) *"Developed Property"* means real property which has been altered from its natural state by the creation or addition of buildings, structures, pavement or other impervious surfaces, or by the alteration of the property that results in a meaningful change in the hydrology of the property during and following rainfall events.

(8) *"Equivalent Residential Unit (ERU)"*. The representative square footage of a detached single family residential property building site as determined pursuant to this ordinance.

(9) *"Exempt property"*. All public rights-of-way, public streets and public roads, public alleys, public sidewalks and public greenways, public drainage facilities, privately owned residential streets, property that does not discharge stormwater runoff to the stormwater or flood control facilities, owners and/or operators of agricultural land, in the municipality, upon which the owner and/or operator conducts activities that enable the owner and/or operator to satisfy the requirements of a qualified farmer or nurseryman under Tennessee law, and railroad right-of-way properties within the City of Goodlettsville. For purposes of this definition, "public" shall mean that which is maintained by or is or is to be dedicated to the City of Goodlettsville and/or the State of Tennessee or the government of the United States.

(10) *"Fiscal year"*. July 1 of a calendar year to June 30 of the next calendar year, both inclusive.

(11) *"Impervious surface"*. A surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.

(12) *"Impervious surface area"*. The number of square feet of horizontal surface covered by buildings, and other impervious surfaces. All building measurements shall be made between exterior limits of the structure, foundations, columns or other means of support or enclosure.

(13) *"Manager"* means the City of Goodlettsville City Manager or his/her designee who is designated to supervise the operation of the stormwater management programs and system.

(14) *"Multi-family Residential Property"* means a residential structure located on a parcel that is designed with five or more dwelling units which accommodate five or more families or groups of individuals living separately and not sharing the same living space.

(15) *"Other Developed Property"* means all Developed Property located within the municipal limits of the City with impervious surface area greater than four hundred (400) square feet other than (i) Residential Property; (ii) Exempt Property; (iii) Vacant Property and (iv) Park Lands/Cemetery. Other Developed Property shall include commercial properties, industrial properties, apartments, parking lots, hospitals, schools, recreational and cultural facilities, industrial properties, hotels, offices, churches, federal, state and local government properties and multi-use properties. Such property shall also include single family dwellings which are attached to or otherwise a part of a building housing a commercial enterprise. Any single family residential structure which contains more than four attached dwelling units is specifically included in this definition.

(16) *"Park Land"/ "Cemetery"* means all real property owned by federal, state and/or local governments that has been designated by such governmental entity for use as a public park or cemetery.

(17) *"Person"*. Any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(18) *"Property owner"*. The property owner of record as listed in the City's and/or county's tax assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

(19) *"Runoff Coefficient"* is a term used to describe the percentage of precipitation that leaves a particular site as runoff. Runoff is precipitation that does not soak or absorb into the soil surface and is greatly impacted by the amount of impervious surface that exists on a particular site. The Runoff Coefficient relates the amount of impervious surface to the intensity of development.

(20) *"Single family residential property"*. A developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling, a townhouse, an accessory apartment or second dwelling unit, a condominium, a duplex, a triplex, a quadruplex, a villa, or a garden home is included in this definition. A single family dwelling which is attached to, or otherwise a part of, a building housing a commercial enterprise is not included in this definition.

(21) *"Stormwater" or "Stormwater"*. Stormwater runoff, snow melt runoff, surface runoff, infiltration, and drainage.

(22) "Stormwater management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control.

(23) "Stormwater Management Fund" or "Fund" means the fund created by this ordinance to operate, maintain, and improve the City's stormwater management system.

(24) "Stormwater system" or "System" means all manmade and natural conveyances and structures, stormwater facilities, and flood control facilities within the corporate limits of the City of Goodlettsville and all improvements thereto for which the partial or full purpose or use is, among other things, to control discharges and flows necessitated by rainfall events; and incorporate methods to collect, convey, store, absorb, inhibit, treat, prevent or reduce flooding, over drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system. This includes all natural conveyances (1) for which the City of Goodlettsville has assumed a level of maintenance responsibility; (2) to which the City of Goodlettsville has made improvements; (3) which have or may pose a threat to public property because of flooding; or (4) for which the City of Goodlettsville is accountable under federal or state regulations for protecting the water quality within its jurisdictional boundaries.

(25) "Stormwater user fee" or "Fee". The utility service fee established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the City of Goodlettsville. The stormwater user fee is in addition to other fees that the City of Goodlettsville has the right to charge under any other rule or regulation of the City of Goodlettsville.

(26) "Stormwater Utility". A management structure that is responsible solely and specifically for the stormwater management program and system.

(27) "Surface water". Waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, ponds, wetlands, marshes and sinkholes.

(28) "Undeveloped Property" shall mean property that has not been developed and does not have more than four hundred (400) square feet of impervious surface area on it.

(29) "User". The owner or customer of record of property subject to the stormwater user fee imposed by this ordinance.

(30) "Vacant/undeveloped property". Property on which there is no structure for which a certificate of occupancy has been issued and does not have more than four hundred (400) square feet of impervious surface area on it.

Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary.

The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

21-104. Funding of Stormwater Utility. Funding for the Stormwater Utility's activities may include, but not be limited to, the following:

- (i). Stormwater user fees;
- (ii). Civil penalties and damage assessments imposed for or arising from the violation of the City of Goodlettsville Stormwater Management Ordinance and City of Goodlettsville Stormwater Utility Ordinance;
- (iii). Stormwater permit and inspection fees; and
- (iv). Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, title 9, chapter 21).

To the extent that the stormwater user fees collected are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such City of Goodlettsville funds as may be determined by the Board of Commissioners.

21-105. Stormwater Utility Management Fund. All revenues generated by or on behalf of the Stormwater Utility shall be deposited in a Stormwater Utility Management Fund and used to fulfill the purposes of the Stormwater Utility.

21-106. Operating Budget. The Board of Commissioners shall adopt, based on a recommendation from the City Administrator, Public Services Director, Finance Director, Public Works Superintendent and/or Stormwater Manager/Coordinator, an operating budget for the Stormwater Utility Management Fund each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service.

21-107. Stormwater User Fee Established. There shall be imposed on each and every developed property in the City of Goodlettsville, except exempt property, a stormwater user fee, which will be charged either monthly or as a regular interval charge, which shall be set from time to time by ordinance as adopted by the City of Goodlettsville. Prior to establishing or amending the stormwater user fee, the City of Goodlettsville shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the City of Goodlettsville at least ten (10) days in advance of the meeting of the Board meeting which shall consider the adoption of the fee or its amendment.

21-108. Equivalent Residential Unit (ERU).

(1) Establishment. The equivalent residential unit (ERU) as a method of measurement is established for the purpose of calculating the stormwater user fees. Such ERU shall be set as twenty-nine hundred (2,900) square feet of impervious area.

21-109. Property Classification for Stormwater User Fees.

(1) Property classifications. For purposes of determining the stormwater user fee, all properties in the City of Goodlettsville are classified into one of the following categories:

- a) Single family residential property;
- b) Other developed property;
- c) Vacant/undeveloped property; and
- d) Exempt property;

Single family residential fee. The Board finds that the intensity of development of most parcels of real property in the City of Goodlettsville classified as single family residential is less than the average intensity of development for other developed property and similar to each other and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the impervious surface on each such parcel. Therefore, all single family residential properties in the City of Goodlettsville shall be charged the unit rate for single family residential properties regardless of the size of the parcel or the impervious surface area of the improvements.

Other developed property fee. The fee for other developed property (i.e., non-single-family residential property) in the City of Goodlettsville shall be charged the unit rate for other developed property multiplied by the number of ERUs on the property as calculated under Section 21-110.

Vacant/undeveloped property fee. There shall be no stormwater user fee for vacant/undeveloped property or as otherwise provided by State law.

Exempt property. There shall be no stormwater user fee for exempt property or as otherwise provided by State law.

21-110. Unit Rate.

The Board hereby establishes a unit rate for single family residential property of three dollars and sixty-seven cents (\$3.67) per month. The Board hereby establishes a unit rate for other developed property of five dollars and fifty cents (\$5.50) per month per ERU or part thereof.

21-111. Property Owners to Pay Charges.

The owner of each property/tax lot shall be obligated to pay the stormwater user fee as provided in this ordinance, provided however, that if no water or sewer service is being provided by the City of

Goodlettsville or local water utility district at the property to the owner as a customer of record and such service is being provided to a customer of record other than the owner, it shall be presumed that the owner and such customer of record have agreed that the customer of record shall be obligated to pay such stormwater user fee.

If the customer of record other than the owner refuses to pay the stormwater user fee, the owner of each property shall be obligated to pay the stormwater user fee as defined in this ordinance.

Single-family residential properties shall be billed a flat single-family residential fee based on the placement of utility meters. Each unit of a multi-tenant single-family residential building (up to four units) shall be the single family residential fee, to the customer of record for the unit. If units are not individually billed for any water or sewer service, i.e. water and sewer utilities are billed to a master meter, then the parcel owner for the master meter shall be billed as other developed property based on the total impervious surface area.

Multi-family residential (>4 units, apartments) and multi-tenant non-residential properties shall be billed an impervious-based fee according to the placement of parcels, i.e. if the property contains individual unit parcels, then the stormwater user fee shall be billed to individual units based on the unit's pro rata percentage of impervious surface. If the multi-tenant property contains only a master parcel, then the stormwater user fee for the entire impervious surface area shall be billed to the owner of record for such master parcel.

21-112. Billing Procedures and Penalties for Late Payment.

(1) Rate and collection schedule. The stormwater user fee shall be billed and collected monthly with the monthly utility services bill for single family properties within the corporate limits. The stormwater user fee for non-single-family properties within the corporate limits shall be billed and collected bi-annually on a direct invoice from the City or with the monthly utility services bills. The stormwater user fee for those properties using City utilities is part of a consolidated statement for utility customers, is generally paid by a single payment to the property owner's water utility or to the City of Goodlettsville Stormwater Department, unless other means of billing is established at any time by the City.

The stormwater user fee for those properties using utilities not provided by the City of Goodlettsville and non-single-family properties within the corporate limits shall be billed and collected by the City of Goodlettsville bi-annually or as directed by the City's Finance Department.

All bills for the stormwater user fee shall become due and payable in accordance with the rules and regulations of the applicable utilities department pertaining to the collection of the stormwater user fees.

(2) Delinquent bills. The stormwater user fee shall be considered delinquent if not received by the City of Goodlettsville or applicable billing Water Utility by the due date stated within the utility statement, and subsequent late fees shall be imposed as set forth in the fee schedule as adopted by the Board of Commissioners as established by an ordinance.

(3) Penalties for late payment; failure to pay. Stormwater user fees shall be subject to a late fee established by ordinance as indicated in the Stormwater User Fee Schedule. The City of Goodlettsville shall be entitled to recover attorney's fees incurred in collecting delinquent stormwater user fees. The City or other collecting utility provider may discontinue utility service to any stormwater user who fails or refuses to pay the stormwater user fees and may refuse to accept payment of the utility bill from any user without receiving at the same time, payment of the stormwater user fee charges owned by such user and further may refuse to re-establish service until all such fees have been paid in full.

(4) Mandatory statement. Pursuant to Tennessee Code Annotated § 68-221-1112, each bill that shall contain stormwater user fees shall contain the following statement in bold: **"THIS FEE HAS BEEN MANDATED BY CONGRESS"**.

21-113. Appeals of Fees. Any person who disagrees with the calculation of the stormwater user fee, as provided in this ordinance, may appeal such fee determination to the Goodlettsville Hearing Authority within sixty (60) days after receipt of stormwater bill is due. Any appeal not filed within the time permitted by this section shall be deemed waived.

All appeals shall be filed in writing addressed to the Stormwater Manager/Coordinator for the City of Goodlettsville and shall state the grounds for the appeal and the amount of the stormwater user fee the appellant asserts is appropriate. The appeal shall provide such information and documentation supporting the basis of the appeal. The appeal shall be accompanied by an appeal review fee as set forth by the Board of Commissioners.

The Goodlettsville Hearing Authority shall review the appeal and determine whether the challenged determination is consistent with the provisions of this chapter. Appeals related to the stormwater user fee shall be decided based on substantiated evidence with a sound engineering and factual basis. All appeal determinations shall be applied utilizing a strict interpretation of the Stormwater Utility Ordinance. At any hearing related to an appeal or credit determination, the City shall be allowed to present evidence, findings, and recommendations; appealing parties and applicants shall be given an opportunity to present evidence, findings, and recommendations.

The Goodlettsville Hearing Authority may request additional information from the appealing party; the committee may defer the determination of an appeal one time to the next regularly scheduled meeting of the Goodlettsville Hearing Authority. Each appeal shall be placed on the Goodlettsville Hearing Authority agenda for the next regularly scheduled meeting, within thirty (30) days after the Stormwater Manager/Coordinator receives the written appeal.

The Stormwater Manager/Coordinator shall notify the appellant customer of the date of the appeal review hearing in writing; such written notice shall be given at least ten (10) days prior to the hearing by regular mail at the address provided in the written appeal document. The decision of the Goodlettsville Hearing Authority shall be final and conclusive with no further administrative review.

If a refund is due, the Stormwater Manager/Coordinator shall authorize the refund which will be provided as the Stormwater Manager/Coordinator deems as necessary.

21-114. Stormwater User Fee Credit and Adjustment Policy.

A "Stormwater User Fee Credits and Adjustments" policy shall be developed by the Stormwater Manager/Coordinator that provides for an appropriate reduction in the stormwater user fee for other developed property for defined actions or activities that reduce the City's cost of service or reduce the property's use of the stormwater system and which are ongoing. Application shall be made in the manner prescribed in the policy document and such user fee credits or adjustments shall be retroactive to the first month in which the unit rates within this ordinance take effect for a period of one (1) year. Thereafter such user fee credits and adjustments shall become effective in the next month or billing cycle after final approval.

21-115. Effective Date. This ordinance shall become effective as of the date of its passage on second reading by the Board of Commissioners. Stormwater user fees shall be charged as a utility billing for all customers within the corporate City limits. The effective date of the new unit rates shall be February 1, 2014. *April*

Passed and adopted this _____ day of _____.

John Coombs, Mayor

ATTEST:

Alicia Prince, City Recorder

LEGAL FORM APPROVED:

Joe Haynes, City Attorney

Passed on 1st Reading: _____

Passed on 2nd Reading: _____